

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 100**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

**BY SENATOR BEGICH**

**Introduced: 3/10/21**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the taxation of income of individuals; repealing tax credits applied**  
2 **against the tax on individuals under the Alaska Net Income Tax Act; and providing for**  
3 **an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 43.05.045(a) is amended to read:

6 (a) **Except as provided in AS 43.22.020(f), or unless** [UNLESS] an  
7 exemption is granted under (b) of this section, a taxpayer required to submit a return  
8 or report for a tax levied under this title or for any other tax administered by the  
9 department shall submit the return or report electronically in a format prescribed by  
10 the department. Failure to comply with this section may result in a civil penalty under  
11 AS 43.05.220(f). If a law under this title requires a report or return or a portion of a  
12 report or return to be in writing, an electronically filed report or return satisfies this  
13 section. A taxpayer shall submit attachments to a report or return required under this  
14 title electronically.

1 \* **Sec. 2.** AS 43.05.230(a) is amended to read:

2 (a) It is unlawful for a current or former officer, employee, or agent of the  
3 state to divulge the amount of income or the particulars set out or disclosed in a report  
4 or return made under this title, except

5 (1) in connection with official investigations or proceedings of the  
6 department, whether judicial or administrative, involving taxes due under this title;

7 (2) in connection with official investigations or proceedings of the  
8 child support enforcement agency, whether judicial or administrative, involving child  
9 support obligations imposed or imposable under AS 25 or AS 47;

10 (3) as provided in AS 38.05.036 pertaining to audit functions of the  
11 Department of Natural Resources;

12 (4) as provided in AS 43.05.405 - 43.05.499; and

13 (5) as otherwise provided in this section, AS 43.22.050, or  
14 AS 43.55.890.

15 \* **Sec. 3.** AS 43 is amended by adding a new chapter to read:

16 **Chapter 22. Individual Income Tax.**

17 **Sec. 43.22.010. Tax on individuals.** (a) A tax is imposed for each calendar  
18 year or fraction of a calendar year on every

19 (1) resident individual; and

20 (2) nonresident individual with income derived from or connected to a  
21 source in the state.

22 (b) The tax under this section for a

23 (1) resident individual is equal to the sum of five percent of the  
24 individual's federal adjusted gross income;

25 (2) nonresident individual is equal to the sum of five percent of the  
26 nonresident individual's total federal adjusted gross income derived from or connected  
27 to a source in the state.

28 **Sec. 43.22.020. Returns and payment of taxes.** (a) A taxpayer required to  
29 make a return under the provisions of the Internal Revenue Code shall file with the  
30 department a return setting out

31 (1) the amount of tax due under this chapter; and

1 (2) other information for the purpose of carrying out the provisions of  
2 this chapter that the department requires.

3 (b) The return shall either be on oath or contain a written declaration that it is  
4 made under penalty of perjury on a form prescribed by the department.

5 (c) The total amount of tax imposed by this chapter is due and payable to the  
6 department at the same time and in the same manner as the tax payable to the United  
7 States Internal Revenue Service.

8 (d) A taxpayer, upon request by the department, shall furnish to the  
9 department a true and correct copy of the tax return that the taxpayer has filed with the  
10 United States Internal Revenue Service. Every taxpayer shall notify the department in  
11 writing of an alteration in, or modification of, the taxpayer's federal income tax return  
12 and of a recomputation of tax or determination of deficiency, whether with or without  
13 assessment. A full statement of the facts must accompany this notice. The taxpayer  
14 shall file the notice within 60 days after the final determination of the alteration,  
15 modification, recomputation, or deficiency, and the taxpayer shall pay the additional  
16 tax owed under this chapter, if any, at that time. In this subsection, "final  
17 determination" means the time that an amended federal return is filed or a notice of  
18 deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service,  
19 after the taxpayer has waived or exhausted rights of appeal under federal law.

20 (e) The department may credit or refund overpayments of taxes, taxes  
21 erroneously or illegally assessed or collected, penalties collected without authority,  
22 and taxes that are found unjustly assessed or excessive in amount, or otherwise  
23 wrongfully collected. The department shall set limitations, specify the manner in  
24 which claims for credits or refunds are made, and give notice of allowance or  
25 disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the  
26 general fund on a warrant issued under a voucher approved by the department.

27 (f) A taxpayer is not required to file a return under this section electronically  
28 unless the person is employed to prepare and file income tax returns for 10 or more  
29 individuals.

30 **Sec. 43.22.030. Income from sources in the state.** (a) For purposes of  
31 AS 43.22.010(a), income from a source in the state includes

1 (1) compensation for personal services rendered in the state;  
 2 (2) salary or wages earned in the state;  
 3 (3) income from real or tangible personal property located in the state;  
 4 (4) income from stocks, bonds, notes, bank deposits, and other  
 5 intangible personal property having a taxable or business situs in the state; however,  
 6 the receipt of interest income from intangible property in the state does not alone  
 7 establish a taxable or business situs in the state;

8 (5) rentals and royalties for the use of or for the privilege of using, in  
 9 the state, patents, copyrights, secret processes and formulas, good will, marks, trade  
 10 brands, franchises, and other property having a taxable or business situs in the state;

11 (6) income of whatever nature from a source with a taxable or business  
 12 situs in the state, including income attributed to or derived from

13 (A) business facilities or property in the state;

14 (B) business, farming, or fishing activities in the state;

15 (C) conducting in the state the management or investment  
 16 function for intangible property;

17 (D) a partnership, limited liability company, estate, or trust  
 18 conducting business activities in the state;

19 (E) a corporation transacting business activities in the state that  
 20 has elected to file federal returns under 26 U.S.C. 1362 (Internal Revenue  
 21 Code);

22 (F) any other activity from which income is received, realized,  
 23 or derived in the state.

24 (b) In this section, if a business, trade, or profession is carried on partly inside  
 25 and partly outside the state, other than the rendering of purely personal services by an  
 26 individual, the income from sources in the state shall be determined as provided in  
 27 AS 43.19.

28 **Sec. 43.22.035. Credit for taxes paid.** (a) A resident is entitled to a credit  
 29 against the tax liability under this chapter for the amount of tax paid to other states,  
 30 territories, or possessions of the United States on income derived from sources in  
 31 those jurisdictions that is also subject to tax in this chapter.

1 (b) A credit allowed under (a) of this section may not

2 (1) exceed the tax due under this chapter before credits are applied,  
3 multiplied by a fraction, the numerator of which is the portion of the taxpayer's federal  
4 adjusted gross income derived from or connected with a source in another state or the  
5 political subdivision of another state and the denominator of which is the taxpayer's  
6 federal adjusted gross income;

7 (2) reduce the tax due under this chapter to less than the tax that would  
8 have been due if the income derived from or connected with a source in another state  
9 or the political subdivision of another state and subject to taxation by the other state or  
10 political subdivision had been excluded from the taxpayer's federal adjusted gross  
11 income during the calculation of tax under this chapter before the application of  
12 credits.

13 **Sec. 43.22.040. Tax withholding on wages of individuals.** (a) Every  
14 employer making payment of wages or salaries

15 (1) shall deduct and withhold an amount of tax computed in a manner  
16 to approximate the amount of tax due on those wages or salaries under this chapter for  
17 that calendar year;

18 (2) shall remit the tax withheld to the department accompanied by a  
19 return on a form prescribed by the department at the times required by the department  
20 by regulation;

21 (3) is liable for the payment of the tax required to be deducted and  
22 withheld under this section but is not liable to any individual for the amount of the  
23 payment; and

24 (4) shall furnish to the employee on or before January 31 of the  
25 succeeding year, or within 30 days after a request by the employee after the  
26 employee's termination if the 30-day period ends before January 31, a written  
27 statement on a form prescribed by the department showing

28 (A) the name and taxpayer identification number of the  
29 employer;

30 (B) the name and social security number of the employee;

31 (C) the total amount of wages, salary, or crew shares for the

1 calendar year; and

2 (D) the total amount deducted and withheld as tax under this  
3 chapter for the calendar year.

4 (b) The department shall publish the rate of withholding required by this  
5 section.

6 (c) In this section,

7 (1) "employee" includes an individual who receives compensation on a  
8 crew share basis in connection with a commercial fishing activity;

9 (2) "employer" includes a person who pays compensation to an  
10 individual on a crew share basis in connection with a commercial fishing activity.

11 **Sec. 43.22.050. Release of information to banking institution.** Information  
12 on an individual income tax return may be released to a banking institution to verify  
13 the direct deposit of an income tax refund or correct an error in that deposit.

14 **Sec. 43.22.060. Administration.** (a) The department shall

15 (1) prescribe all forms necessary to implement this chapter, including a  
16 form that requires a taxpayer to itemize deductions and credits taken against the tax  
17 due under this chapter; and

18 (2) adopt regulations to implement and interpret this chapter, including  
19 regulations for the online filing and payment of tax due under this chapter or the  
20 prepayment of an estimated tax due under this chapter.

21 (b) The department may incorporate into the regulations provisions of the  
22 Internal Revenue Code that are necessary or useful to the administration of this  
23 chapter.

24 **Sec. 43.22.190. Definitions.** In this chapter,

25 (1) "domiciled" means established in a true principal permanent home  
26 to which the individual has the intention of returning whenever absent;

27 (2) "federal adjusted gross income" means

28 (A) the total adjusted gross income reported by the taxpayer on  
29 a federal individual income tax return, but excluding income that may not be  
30 taxed by the state under federal law; or

31 (B) if federal taxes are due under the federal alternative

1 minimum tax, the total alternative minimum taxable income reported by the  
 2 taxpayer on a federal income tax return, excluding income that may not be  
 3 taxed by the state under federal law;

4 (3) "individual" means a natural person, married or unmarried, adult or  
 5 minor, subject to payment of income tax under the Internal Revenue Code;

6 (4) "Internal Revenue Code" means the Internal Revenue Code of the  
 7 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code  
 8 and amendments apply to the normal taxes and surtax on net incomes, which  
 9 amendments are operative for the purposes of this chapter as of the time they became  
 10 operative or will become operative under federal law;

11 (5) "nonresident" means an individual who is not a resident;

12 (6) "resident" means an individual who

13 (A) was domiciled in the state or resided in the state for the  
 14 entire calendar year;

15 (B) claims to be a resident of the state on the individual's  
 16 federal tax forms;

17 (C) receives a permanent dividend under AS 43.23;

18 (D) is registered to vote under AS 15; or

19 (E) received a resident fishing, hunting, or trapping license  
 20 during the calendar year under AS 16;

21 (7) "taxpayer" means a person subject to a tax imposed by this chapter.

22 \* **Sec. 4.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.

23 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
 24 read:

25 APPLICABILITY. AS 43.22, enacted by sec. 3 of this Act, applies to income received  
 26 on or after the effective date of sec. 3 of this Act.

27 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
 28 read:

29 TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations  
 30 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative  
 31 Procedure Act), but not before the effective date of the law implemented by the regulation.

- 1 \* **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).
- 2 \* **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2022.